



Korea, Republic of

Country Reports on Human Rights Practices - [2003](#)

Released by the Bureau of Democracy, Human Rights, and Labor
February 25, 2004

The Republic of Korea (Korea) is governed by a directly elected president and a unicameral legislature. In December 2002, President Roh Moo-hyun was elected in free and fair elections to a single 5-year term of office. A free and fair National Assembly election was held in 2000, with another scheduled in 2004. The judiciary is independent under the Constitution, and is becoming increasingly so in practice.

Responsibility for maintaining internal security lies with the National Intelligence Service (NIS), the National Police Administration (NPA), and the Defense Security Command (DSC). The NIS and the DSC are legally barred from involvement in domestic politics, although the NIS is authorized to investigate organizations believed to support the Government of the Democratic People's Republic of Korea (DPRK). Some members of the police were responsible for occasional human rights abuses.

During the year, the country's economy grew by 3.0 percent. Unemployment remained under 3.4 percent. However, the country's economic growth was dependent on key export products, and weakness in the financial system left the economy susceptible to unpredictable external conditions. The country's population was 48,289,037.

The Government generally respected the human rights of its citizens; however, problems persisted in some areas. The police and prison personnel at times physically and verbally abused detainees, although human rights groups reported that the number of such cases continued to decline. The National Security Law (NSL) curtailed free speech and press, peaceful assembly and association, and free travel. Domestic violence, rape, and child abuse remained serious problems. Women and minorities continued to face legal and societal discrimination. Many public sector employees did not enjoy the right of association. The Republic of Korea continued to be a significant country of origin, transit, and destination for trafficking in persons, particularly women and children for the sex trade and domestic servitude.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

The Presidential Truth Commission on Suspicious Deaths continued to investigate and redress cases of government-sanctioned torture and killing of pro-democracy activists under the military regimes of the past. Since its inception in 2000, the Commission has reviewed 83 cases and confirmed 30 cases of suspicious deaths.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Penal Code prohibits mistreatment of suspects. The Government has ordered investigating authorities to protect the human rights of suspects, and allegations of abuse by authorities of those in custody continued to decline. Nonetheless, police sometimes abused persons in custody. Prosecutors continued to place emphasis on securing convictions through confessions, a focus driven by cultural factors, with confession viewed as a necessary basis for the reform and rehabilitation of convicted defendants. Credible sources reported that in some cases police verbally or physically abused suspects, including beatings, threats, and intimidation in the course of arrest and police interrogation. However, human rights groups reported fewer such

cases during the year.

During the year, there were occasions when demonstrators used violent tactics, including firing nuts and bolts with slingshots and throwing Molotov cocktails. The police responded with commensurate force. Although some activists accused the police of brutality, most observers reported that police personnel acted in a disciplined and professional manner.

In recent years, under the National Public Service Law and criminal law, a number of police and security officials accused of abuse or harassment have been punished or disciplined through demotion, pay cuts, and dismissal. No police officials were charged under criminal law during the year for abuses committed while on duty.

The Government continued to investigate past abuses. For example, by year's end, the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement, established in 2000 to review cases in which political activists may have been tortured, had reviewed 7,496 of the 11,901 cases submitted to it and determined that compensation was due in 402 of them.

Prison conditions and diets were spartan but met international standards. By year's end, the Government had installed floor heating and cooling systems in 35 of 44 prisons nationwide as part of a multi-year plan to upgrade the entire prison system. Traveling clinic teams visited prisons, and prison clinics were equipped with x-ray machines.

Inmates occasionally criticized guards for using excessive force or needlessly putting prisoners in manacles. The nongovernmental organization (NGO) Asian Legal Resource Center (ALRC), in a report to the U.N. Commission on Human Rights, criticized prison officials for disciplining prisoners by imposing multiple consecutive solitary confinement sentences. Under prison regulations, offending prisoners may be held in solitary confinement for a period of 2 months, but the ALRC alleged that officials routinely imposed consecutive terms, thus exceeding the 2-month limit. Inmates had access to reading materials, telephones, and television broadcasts. Education in computers and foreign languages, occupational training programs, and an Inmate Employment Center helped inmates prepare to resume normal lives. Most prisoners were allowed to receive up to five visitors four to six times per month. Some prisoners were allowed unlimited visits. Model prisoners who had served more than one-third of their sentences were allowed unsupervised meetings with visitors and were exempt from mail censorship. Some were eligible for overnight leave. Pregnant inmates received special treatment, including supplementary food, for the full term of their pregnancies and for an additional 6 months after giving birth. Pregnant inmates also received prenatal care for the full term of their pregnancies. Female inmates were not searched by male prison guards without the prior consent of the prison warden, and a female guard was present during such searches.

Female prisoners were segregated from male prisoners, and juveniles were segregated from adults.

The National Human Rights Commission monitored prison conditions through a prisoner petition system, in which prisoners could submit suggestions through a petition box in each prison. The Commission also conducted investigations and studies on medical equipment and facilities in prisons, provision of medical services, and conditions in military prisons. According to the Ministry of Justice, human rights NGOs are allowed to visit prisons by appointment and to submit recommendations to prison authorities.

d. Arbitrary Arrest, Detention, or Exile

Laws regarding arrest and detention often are vague, and prosecutors have wide latitude to interpret them. For example, the NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea, and therefore deemed dangerous to the country. The NSL permits the imprisonment for up to 7 years of anyone who "with the knowledge that he might endanger the existence or security of the State or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an anti-state organization." The legal standard for what constitutes "endangering the security of the State" is vague. Thus, a number of persons have been arrested for what appeared to be the peaceful expression of views that the Government considered pro-North Korean or anti-state. Among those arrested under the NSL were persons who praised North Korea, its former leader Kim Il Sung, or North Korea's "self-reliance" philosophy.

Between January and July, 43 persons were arrested for violating the NSL, and 15 persons remained in custody as of September 5. One high-profile case was that of Professor Song Du-yul, a longtime resident of Germany accused of supporting the North Korean regime (see Section 2.d.).

Because of the vagueness of the NSL and the invocation of classified security threat information regarding the Korean Peninsula, the Government is relieved of the burden of proof that any particular speech or action in fact threatened the nation's security.

The U.N. Human Rights Committee has termed the NSL "a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights." Then-President Kim Dae-jung, who himself narrowly avoided a death sentence under the NSL, acknowledged in 2000 that the law had "problematic areas" and announced his intent to pursue major revisions, particularly in light of improvements in relations between North and South Korea since the June 2000 summit.

The National Police Agency is under the Ministry of Government Administration and Home Affairs. The approximately 93,000-member force has a national headquarters in Seoul, 5 special agencies including the Maritime Police, 13 provincial headquarters, 220 police stations, and 3,389 branch offices. The NPA was considered well disciplined, and corruption and impunity were not major problems.

The Criminal Code requires warrants in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or if a judge is not available and the authorities believe that a suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after the suspect is apprehended, or, if a court is not located in the same county, within 72 hours. Police may detain suspects who appear voluntarily for questioning for up to 6 hours but must notify the suspects' families. The police generally respected these requirements.

Authorities normally must release suspects after 30 days unless an indictment is issued. Consequently, detained suspects were a relatively small percentage of the total prison population.

The Constitution provides for the right to representation by an attorney, including during police interrogation. There were no reports of access to legal counsel being denied. There is a bail system, but human rights lawyers said bail generally was not granted for detainees who were charged with committing serious offenses, might attempt to flee or harm a previous victim, or had no fixed address.

The Constitution and law neither provide for nor prohibit forced exile. The Government does not use forced exile, although some persons living abroad could face criminal charges if they returned to the country (see Section 2.d.).

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the judiciary showed increasing independence. The President appoints the Chief Justice and most justices of the Constitutional Court. Although judges do not receive life appointments, they cannot be fired or transferred for political reasons. The Prosecutor's Office, under the jurisdiction of the Ministry of Justice (MOJ), has shown increased independence and impartiality. Early in the year, the Minister of Justice initiated a new system of appointments and promotions based on merit rather than the previous traditional system based on seniority. Many civic organizations strongly endorsed these changes; however, some members of the opposition criticized them as "political interference." Late in the year, the Prosecutor's Office initiated an investigation into allegations of corruption and illegal campaign financing by both major parties during the 2002 presidential campaign, an investigation that the opposition Grand National Party (GNP) complained was biased.

During the year, one member of the National Assembly lost his seat for violating election law.

Local courts are presided over by judges who render verdicts in all cases. There is no trial by jury. Both defendants and prosecutors can appeal a verdict or a sentence to a district appeals court and to the Supreme Court. Constitutional challenges can be taken to the Constitutional Court.

The Constitution provides defendants with a number of rights in criminal trials, including the presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. Although the Constitution prohibits double jeopardy, the courts have interpreted this provision to mean that a suspect cannot be indicted or punished more than once for the same crime. However, the prosecution can appeal a not guilty verdict or a sentence it considers excessively lenient; thus, a suspect may in fact be tried more than once for the same crime. When a person is detained, the initial trial must be completed within 6 months of arrest. These rights generally were observed. Trials were open to the public, but a judge could restrict attendance if he believed spectators might disrupt the proceedings.

Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. Cases involving national security and criminal matters were tried by the same courts. Although few convictions were overturned, appeals often resulted in reduced sentences. Death sentences were appealed automatically.

It was difficult to estimate the number of political prisoners because it was not clear whether particular persons were arrested for merely exercising the rights of free speech or association, or were detained for committing acts of violence or espionage. A human rights group reported that, as of September, there were 109 political prisoners, including 37 students, 49 labor leaders, and 23 other dissidents. However, this group's definition of a political prisoner often included all persons imprisoned for politically motivated acts, including violations of the NSL, the Assembly and Demonstration Act, or the Trade Union Act, and for violence or interference with official duties in the course of demonstrations or strikes. Typically, on several occasions during the year, the Government grants special pardons or reinstatements of civil rights to persons, including some imprisoned for violations of the NSL or for engaging in violence during labor demonstrations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Government generally respected the integrity of the home and family. The Anti-Wiretap Law and the law to reform the NIS

have curbed government surveillance of civilians, including political dissidents. The Anti-Wiretap Law lays out broad conditions under which the Government may monitor telephone calls, mail, and other forms of communication for up to 2 months in criminal investigations and 4 months in national security cases. Some human rights groups argued that illegal wiretapping, shadowing, and surveillance photography still occurred. They asserted that the lack of an independent body to investigate whether police have employed illegal wiretaps hindered the effectiveness of the Anti-Wiretap Law. They called for either tightening or abolishing a provision in the existing law that allows government officials to obtain retroactive judicial permission to monitor a conversation in the event of an emergency.

The Government continued to require some released prisoners to report regularly to the police under the Social Surveillance Law.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in North Korea if the Government determines that they are doing so to help North Korea. However, this prohibition is rarely enforced, and the viewing of North Korean satellite telecasts in private homes is legal. The Government also allows the personal perusal of North Korean books, music, television programs, and movies as a means to promote understanding and reconciliation with North Korea. North Korean books were sold openly in a few shops. Student groups made credible claims that government informants were posted on university campuses.

The Korean Bar Association alleged that police installation of closed-circuit television cameras, as a crime prevention measure in Gangnam district, was an illegal infringement on privacy. Residents generally were supportive of the measure and believed it had reduced crime in the district.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Most political discourse is unrestricted, but, under the NSL, the Government may limit the expression of ideas that authorities consider Communist or pro-North Korean. Broad interpretations of the NSL allowed for restrictions on peaceful dissent. A bill to abolish the NSL, proposed in November 2000, and a bill to amend the NSL, proposed in April 2001, were still pending in the National Assembly's Legislation and Judiciary Committee at year's end.

Although the Government has abandoned direct control over the news media, there were instances in which it appeared to seek to exert pressure on media activities through direct lobbying, by conducting tax audits on news organizations and key journalists, or other legal or administrative measures. Libel laws have in the past been used to harass publishers for articles that were unflattering but not necessarily untrue. While no journalists were arrested or jailed for libel during the year, news organizations were subject to legal action. The Government Information Agency announced that opinion pieces such as editorials could be subject to legal action if they contained falsehoods. In August, President Roh brought a libel suit against the four major mainstream newspapers in the country. The Fair Trade Commission also began to monitor newspaper distribution sites for "unfair" trade practices such as distributing free copies or providing promotional gifts to new subscribers. Roh's actions against the news publications drew criticism from the International Federation of Journalists for infringing on freedom of the press.

The state-owned radio and television network maintained a considerable degree of editorial independence in its news coverage.

During the year, prosecutors indicted 18 persons under the NSL for producing, selling, or distributing pro-North Korean or pro-Communist materials. Court precedents allowed citizens to possess these kinds of publications for purely academic use, profit, or curiosity, but not with the intent of subverting the Government. Prosecutors had wide discretion in determining motives for possessing or publishing such materials.

There was frequent and diverse reporting on North Korea and North-South issues in the media. Reporting on these issues previously had been illegal or highly monitored.

The Government Censorship Board, which screens movies for sex and violence, followed more liberal guidelines in recent years and allowed the release of a broader range of films.

The Government blocked violent and sexually explicit websites, and required site operators to rate their site as harmful or not harmful to youth. Some homosexual groups charged that the Government acted discriminatorily in blocking their websites.

The Government did not restrict academic freedom. However, student groups credibly claimed that government informants were posted on university campuses.

b. Freedom of Peaceful Assembly and Association

The Law on Assembly and Demonstrations prohibits assemblies that are considered likely to undermine public order. The law requires that the police be notified in advance of demonstrations of all types, including political rallies. The police must notify

organizers if they consider an event impermissible under this law.

In October, the Constitutional Court found that provisions of the law that made it a crime to hold demonstrations within 100 yards of a foreign mission were unconstitutional. At year's end, the Government was considering an appeal.

In March, the Seoul police warned organizers of a series of "vigils" held in proximity to a foreign embassy that their vigils were taking the form of demonstrations. Reacting against this warning, 40 members of the organizing group tried to force their way into NPA headquarters. A number of persons were arrested.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Associations operated freely, except those deemed by the Government to be seeking to overthrow the Government.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. There is no state religion, and the Government did not subsidize or favor a particular religion. Government policy continued to contribute to the generally free practice of religion.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Most citizens could move freely throughout the country; however, police had discretion to restrict the movements of some former prisoners. Foreign travel generally was unrestricted; however, the Government must approve travel to North Korea. To obtain approval, potential visitors must demonstrate that their trip does not have a political purpose and is not undertaken to praise North Korea or criticize the Government. During the year, the Government continued to promote the expansion of North-South government, economic, cultural, and tourism-related contacts. However, travelers to North Korea who did not receive government permission were subject to arrest upon their return. There were five such cases during the year.

In the past, the Government forbade some citizens convicted of politically related crimes from returning to the country, and some citizens still faced sanctions if they chose to return. However, the current Roh administration appeared to be relaxing the Government's position. For example, dissident scholar Song Du-yul, who returned to the country in September after 37 years of self-imposed exile, was not arrested upon arrival, as some had predicted. He was accused of having urged a South Korean student to defect to the North, of having visited North Korea on numerous occasions without the Government's authorization, of being a member of the Korean Worker's Party (the North Korean Communist Party), and of being a member of the Party's Politburo. Song voluntarily presented himself for several days of questioning by the National Intelligence Service and was indicted on November 19 for violations of the NSL. His trial was underway at year's end.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other organizations in assisting refugees. In practice, the Government provided protection against refoulement, but did not routinely grant refugee or asylum status. Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers. According to the UNHCR, procedures for adjudicating asylum applications were substantially improved during the year, including an improved level of dialogue with the UNHCR on technical aspects of individual cases and an expansion of the decision-making body to include non-governmental experts. The Government's handling of asylum applications, although slow, became more flexible toward cases under review by the UNHCR. The Government suspended exit orders for these individuals. It also exercised flexibility toward persons whose applications were rejected in the government review process, but who the UNHCR found met the definition of refugee. However, procedures for receiving asylum applications were not always consistent with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. UNHCR continued to document instances in which asylum seekers encountered correctable difficulties in the application process, including the lack of independent and competent translators and a lack of basic counseling by government officials on asylum procedures. There were instances during the year when immigration officials told applicants that they had no reason to seek asylum.

In 2002, the Government extended the right to work to refugees, and during the year initiated a limited social assistance program for both refugees and asylum seekers. Convention refugees are eligible for the same national health insurance as are citizens, and two medical hardship cases were provided livelihood assistance grants by the Ministry of Justice due to their inability to pursue gainful employment. Asylum seekers are given 90-day extensions of their temporary stay permits while their applications are under review. Although legally barred from working during this period, in practice, most asylum seekers entered the labor market, as did other undocumented foreign workers.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for all citizens 20 years of age or older. Elections are held by secret ballot.

The Constitution provides for the direct election of the president to a single 5-year term; the president may not stand for re-election. Representatives to the National Assembly are elected under a dual system of direct and proportional representation. Voters cast one vote for a candidate from their electoral district and a separate vote for a party; the percentage of votes for each party determines the number of that party's candidates who are elected as proportional representatives. The National Assembly members serve terms of 4 years and are not subject to a term limit.

At year's end, the 273-seat National Assembly included 15 female legislators. One of them chaired a special committee on women's affairs. Four of the 19 cabinet ministers were women: the Minister of Justice, the Minister of Health, the Minister of Environment, and the Minister of Gender Equality.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Many domestic nongovernmental organizations (NGOs) were active in promoting human rights, and they generally operated without government restriction. Chief among these groups were the Lawyers for a Democratic Society, Sarangbang, the Human Rights Committee of the National Council of Churches in Korea, the Korean Bar Association, People's Solidarity for Participatory Democracy, and Mingahyup, an association of the families of political prisoners. These groups published reports on human rights and made their views known both inside and outside the country. A number of high-level government officials were formerly associated with Lawyers for a Democratic Society. Government officials were willing to meet with international human rights groups.

The National Human Rights Commission, established by the Government in 2001, continued to monitor and investigate human rights violations and complaints of discrimination, including during interrogations and in correctional facilities. Members of the National Human Rights Commission were not permitted to be present at interrogations, but they were authorized to visit prisons and correctional institutions and to meet with persons who had been arrested and were in custody.

The work of the National Human Rights Commission was augmented and complemented by that of the Presidential Truth Commission on Suspicious Deaths (see Section 1.a.) and the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement (see Section 1.c.).

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution and law forbid discrimination on the basis of race, sex, religion, disability, or social status, and the Government generally respected these provisions. However, traditional attitudes limited opportunities for women and the disabled. Ethnic minorities, primarily foreign workers, were very small in number and faced both legal and societal discrimination.

Women

Violence against women remained a problem. The Ministry of Gender Equality, established in 2001, reported that more women were coming forward to report abuse. The Prevention of Domestic Violence and Victim Protection Act defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to 6 months. Offenders may also be placed on probation or ordered to see court-designated counselors. The law also requires police to respond immediately to reports of domestic violence.

Rape remained a serious problem. From January 1 through September 1, 3,914 cases of rape were reported, and 3,630 cases were prosecuted. Many rapes were believed to have gone unreported because of the stigma associated with being raped. The activities of a number of women's groups increased awareness of the importance of reporting and prosecuting rapes, as well as of offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape frequently went unprosecuted, and perpetrators of sex crimes, if convicted, often received light sentences. The penalty for rape is 3 years' imprisonment; if a weapon is used or two or more persons commit the rape, punishment may be a maximum of life imprisonment.

Prostitution is illegal but widespread.

The country was a major origin, transit, and destination point for trafficking in women and children destined for the sex trade and domestic servitude (see Section 6.f.).

From January through July, 90 cases were filed under the Gender Discrimination Prevention and Relief Act; 51 dealt with sexual harassment and 18 concerned employment discrimination (pregnancy, promotion, or salary). Under the law, companies could be fined up to \$2,500 (3 million won) for failing to take steps to prevent sexual harassment in the workplace or failing to punish an offender. The law also required companies to establish in-house sexual harassment complaint centers and prohibits firms from punishing employees for taking their complaints to outside organizations.

The Family Law permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her children after a divorce. Although the law helped abused women who chose to

divorce, the stigma of divorce remained strong, and there was little government or private assistance for divorced women. These factors, plus the fact that divorced women had limited employment opportunities and had difficulty remarrying, led some women to stay in abusive situations. However, according to a Ministry of Health and Welfare report the country now has one of the highest divorce rates in the world, with 47.4 percent of marriages ending in divorce. The Government has established some shelters for battered women and has increased the number of childcare facilities, giving women in abusive situations more options. However, women's rights groups said these measures fell far short of effectively dealing with the problem.

The country's conservative traditions left women subordinate to men legally, socially, and economically. Despite the passage of equal employment opportunity legislation, few women worked as company executives, and sexual discrimination in the workplace remained a problem. The Equal Employment Act has been revised to impose tougher penalties on companies found to discriminate against women in hiring and promotions. Under the law, the Presidential Commission on Women's Affairs (the precursor of the existing Ministry of Gender Equality) was granted the authority to investigate sexual discrimination cases in the workplace. A company found guilty of practicing sexual discrimination could be fined up to \$4,167 (5 million won) and have its name published in the newspaper. The law also provides for a public fund to support victims in seeking legal redress. Nevertheless, some government agencies' preferential hiring of applicants with military service (nearly always men) perpetuated legal barriers against women, despite a 1999 Constitutional Court ruling that such preferential hiring discriminated against women and disabled persons and was unconstitutional.

Women had full access to education, and social mores and attitudes were changing gradually. For example, the major political parties made more efforts to recruit women, and an increasing number of women occupied key party positions. The military and service academies also continued to expand opportunities for women.

The Government provided an allowance of \$446 (535,000 won) per month to 137 former "comfort women" (women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Army).

Children

The Government demonstrated its commitment to children's rights and welfare through public education. The Government provided high-quality elementary education to all children free of charge. Education is compulsory through the age of 15, and most children obtained a good secondary education. High-quality health care was widely available to children.

As public awareness of the problem of child abuse continued to grow, the number of reported cases increased. According to one NGO's figures, approximately 363 cases were reported from January 1 through September 1. The Seoul metropolitan government ran a children's counseling center that investigated reports of abuse, counseled families, and cared for runaway children. The Prevention of Domestic Violence and Victim Prevention Act of 1998 allows a child to bring charges against a parent in cases of abuse. Since then, the Government has established a child abuse hotline, as well as temporary protection facilities, counseling centers, communal homes, and other protection services and facilities. Revisions since 1998 also included increased penalties for convicted child abusers, who faced up to 5 years in prison (compared to the previous 2 years) for child abuse.

Since 1999, the Youth Protection Law has provided for prison terms of up to 10 years and a fine of \$8,333 (10 million won) per minor hired for owners of entertainment establishments who hired minors under the age of 19. The Commission on Youth Protection also expanded the definition of "entertainment establishment" to include facilities, such as restaurants and cafes, where children were hired illegally as prostitutes. In 2000, the Government enacted the Juvenile Sexual Protection Act, which established a maximum sentence of 20 years' imprisonment for the sale of the sexual services of persons younger than 19 years of age. It also established prison terms for persons convicted of the purchase of sexual services of youth under the age of 19 (see Section 6.f.). Based on this law, the Commission enforced a decree to publicize the names of those who had committed sex offenses against minors. As of September, the names of 643 sexual offenders had been made public, with another 640 to be publicized in December.

The traditional preference for male children continued, although it was less evident among those in their twenties and thirties. Although the law bans fetal testing except in cases in which a woman's life is in danger, hereditary disease could be transmitted, or in cases of rape or incest, such testing and the subsequent abortion of female fetuses frequently occurred. The Government expressed concern about the widening disparity between male and female birth rates.

Persons with Disabilities

Discrimination against persons with disabilities in employment, education, or the provision of other state services is illegal. The law states, "No one shall be discriminated against in all areas of political, economic, social, and cultural life on the grounds of disability." Although measures aimed at creating opportunities for persons with disabilities have been taken, public facilities remained inadequate.

Firms with over 300 employees are required by law either to hire persons with disabilities or pay a fine. Surveys indicated that most companies either paid the fine or evaded the law; a 1999 survey indicated that 9 out of 10 firms with more than 300 employees failed to meet the mandated 2 percent job quota for persons with disabilities. The hiring of persons with disabilities remained significantly below target levels. Persons with disabilities made up less than 1 percent of the work force.

New public buildings were required to include facilities for persons with disabilities, such as ramp access to entrances, wheelchair lifts, and special parking spaces. The Health and Welfare Ministry announced that existing government buildings must be retrofitted with these facilities, and, as of September, 98 percent of major public buildings had facilities for persons with disabilities. In 2002, after two persons with disabilities were killed in accidents involving wheelchair lifts, the Government embarked on a plan to install elevators at all subway stations. As of September, there were 304 elevators in service; all 492 subway stations are scheduled to have elevators installed by April 2005.

National/Racial/Ethnic Minorities

The country is racially homogeneous, with no sizable populations of ethnic minorities. Except in cases of naturalization, citizenship is based on parentage, not place of birth, and persons must show their family genealogy as proof of citizenship. Naturalization is a difficult process requiring detailed applications, a long waiting period, and a series of investigations and examinations. Because of the difficulty of establishing Korean citizenship, those not ethnically Korean remained "foreign," thus disqualifying them legally from entering the civil service and, in practice, being hired by some major corporations. According to a Human Rights Commission survey, 50.7 percent of foreign workers reported that they experienced mockery and verbal attacks in the workplace. Amerasians faced no legal discrimination, but informal discrimination was prevalent.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides workers, except public sector employees, with the right to associate freely. White-collar government workers may form "workplace councils," and blue-collar government workers may organize unions.

Labor law changes in 1997 authorized the formation of competing unions starting in 2002, but implementation of these changes was postponed until 2006 by mutual agreement among members of the Tripartite Commission, which includes representatives of the Government, labor, and management (see Section 6.b.). According to the International Confederation of Free Trade Unions (ICFTU), the consequence of a lack of competing unions is that employers can create their own management-controlled unions. All unions are required to notify the authorities when formed or dissolved. According to the Ministry of Labor 1.6 million workers, approximately 11.6 percent of employed workers, were union members, and there were 6,506 trade unions.

In the past, the Government formally recognized only two labor federations: the Federation of Korean Trade Unions (FKTU) and the Independent Korean Federation of Clerical and Financial Workers. In recent years, the Government has recognized independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and at government research institutes. In 1999, the legalization of the teachers' unions paved the way for government recognition of the militant Korean Confederation of Trade Unions (KCTU). The two teachers' unions, the KCTU-affiliated Korean Teachers' Union (Chonkyojo) and the FKTU-affiliated Korean Union of Teachers and Educational Workers, have the right to bargain collectively with the Ministry of Education on wages and working conditions but not school curricula; it is illegal for the unions to strike. In practice, however, even those labor federations not formally recognized by the Labor Ministry have operated without government interference.

The FKTU and KCTU were affiliated with the International Confederation of Free Trade Unions (ICFTU). Most of the FKTU's 20 constituent federations maintained affiliations with international trade secretariats, as did the KCTU Metalworkers Council.

b. The Right to Organize and Bargain Collectively

The Constitution and the Trade Union Law provide for the right of workers to collective bargaining and collective action. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. Employers found guilty of unfair practices can be required to reinstate workers fired for union activities. According to the FKTU, this occurred frequently. The Tripartite Commission established a subcommittee on the protection of civil servants' basic rights and has discussed the establishment of a civil servants' union.

Extensive collective bargaining was practiced, even with unions whose federations were not recognized legally by the Government. However, labor laws do not extend the right to organize and bargain collectively to defense industry workers or white-collar government employees, who may form "workplace councils" and make recommendations but may not engage in collective bargaining.

The Labor Dispute Adjustment Act requires unions to notify the Labor Ministry of their intention to strike. It mandates a 10-day "cooling-off period" before a work stoppage legally may begin and 15 days' notice in public interest sectors. Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

Strikes are prohibited in government agencies, state-run enterprises, and defense industries. By law, unions in enterprises determined to be of "essential public interest"--including public transportation, utilities, public health, banking, and telecommunications--can be ordered to submit to government-ordered arbitration. However, in practice the Government rarely

imposed arbitration.

There were 319 strikes and 49 lockouts involving a total of 137,241 workers and a loss of 1,298,663 working days.

According to the KCTU, through September, 213 persons were arrested for allegedly instigating violent strikes or illegally disrupting business during the year, of whom 62 were still imprisoned at year's end. Police sometimes dispersed demonstrations that were determined to be violent or potentially violent. For example, in June, police dispersed a rally of striking railroad workers and briefly detained 1,749 of them.

During the year, there were at least three suicides by labor leaders who were the targets of legal actions for having led illegal strikes.

There is no independent system of labor courts. The central and local labor commissions form a semiautonomous agency of the Labor Ministry that adjudicates disputes in accordance with the Labor Dispute Adjustment Law. Each commission is composed of equal numbers of representatives of labor and management, plus neutral experts who represent the "public interest." Local commissions can decide on remedial measures in cases involving unfair labor practices and can mediate and sometimes arbitrate labor disputes. Arbitration can be made compulsory in sectors of the economy (for example, utilities and transportation) deemed essential to public welfare.

In 1998, the Government established the Tripartite Commission, with representatives from labor, management, and the Government, to deal with labor issues related to the economic downturn. The Tripartite Commission concluded an agreement that year covering, among other things, unemployment policy, corporate restructuring, labor conditions, labor market flexibility, and the promotion of basic labor rights. The work of the Commission made it legal for companies to lay off workers due to economic hardship and authorized temporary manpower agencies.

Under the 1997 labor laws, persons who assist trade unions or employers in a dispute are required to register with the Ministry of Labor. Those who fail to do so face a large fine or a maximum sentence of 3 years' imprisonment. However, no one has been charged for failing to register.

The Government originally designated enterprises in the two export processing zones (EPZs) as public interest enterprises. Workers in these enterprises gradually have been given the rights enjoyed by workers in other sectors of the economy. Labor organizations are permitted in EPZs.

c. Prohibition of Forced or Bonded Labor

The law prohibits forced or bonded labor, including forced or bonded labor by children, and it was not known to occur. The Constitution provides that no person shall be punished, placed under preventive restrictions, or subjected to involuntary labor, except as provided by law and through lawful procedures.

Some illegal foreign workers alleged beatings, forced detention, withheld wages, and seizure of passports by their employers (see Section 6.e.).

d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Standards Law prohibits the employment of persons under age 15 without a special employment certificate from the Labor Ministry. Because education is compulsory through middle school (approximately age 15), few special employment certificates were issued for full-time employment. To obtain employment, children under age 18 must obtain written approval from either parents or guardians. Employers can require minors to work only a limited number of overtime hours and are prohibited from employing them at night without special permission from the Labor Ministry. Child labor laws and regulations are clear and were usually enforced when violations

were found, but critics claimed that the Government employed too few inspectors to carry out regular inspections.

e. Acceptable Conditions of Work

The minimum wage is reviewed annually. As of September, the minimum wage was \$2.09 (2,510 won) per hour, \$16.73 (20,080 won) per day, or \$472.17 (567,260 won) per month. Companies with fewer than 10 employees were exempt from this law. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers. However, the money an average blue-collar worker took home in overtime and bonuses significantly raised the total compensation package. According to the Ministry of Health and Welfare, 1.4 million persons (2.9 percent of the population) lived below the poverty level. Another 3.2 million persons were classified as living in "potential extreme poverty."

The Labor Standards Law was amended in September to provide for a maximum regular workweek of 40 hours, and provides for a higher wage for overtime. However, the overtime premium will be reduced from 150 percent of the base wage to 125 percent concurrent with the reduction in weekly working hours. Labor law mandates a 24-hour rest period each week. Several

firms have already negotiated new contracts with their unions that reduced the workweek to 40 hours, i.e., five 8-hour days, with no reduction in annual leave days or total wages. Labor laws also provide for a flexible hours system, under which employers can require laborers to work up to 44 hours during certain weeks without paying overtime, so long as average weekly hours for any given 2-week period do not exceed 40 hours. If a union agrees to a further loosening of the rules, management may ask employees to work up to 56 hours in a given week. Workers may not be required to work more than 12 hours per working day. Labor groups claimed that the Government did not enforce adequately the maximum workweek provisions at small companies.

Foreign workers, mostly from China, Bangladesh, Mongolia, the Philippines, Thailand, Nepal, Vietnam, Indonesia, Sri Lanka, and Pakistan, often faced difficult working conditions. Under legislation enacted in July, approximately 227,000 illegal foreign workers were eligible for a 2-year extension of their stay, but an additional 120,000 (those who had illegally overstayed their visas by more than 4 years) were subject to arrest and deportation. The Ministry of Labor warned employers to pay workers subject to deportation all their back wages. Workers injured in industrial accidents were to be allowed to remain in Korea until they had recovered, and those suing employers would be allowed to stay until their suits had been resolved.

The Foreign Workers Human Rights Commission has met three times since its establishment in 2000 to hear complaints from foreign workers and to discuss methods of controlling violations of foreign workers' rights, including unpaid wages. The Commission concluded that the Ministry of Gender Equality, Ministry of Labor, KNPA, and the Medium and Small Business Administration should cooperate to implement these measures.

Foreign workers working as language teachers have complained that the language institutes frequently violated employment contracts, for which the legal system provided insufficient redress.

The Government has set health and safety standards, but the accident rate was high by international standards. However, this rate continued to decline gradually due to improved occupational safety programs and union pressure for better working conditions. Although the number of inspectors has increased, the Labor Ministry still lacked sufficient inspectors to enforce the laws fully. The law does not provide job security for workers who remove themselves from dangerous work environments.

f. Trafficking in Persons

There is no single law that specifically prohibits trafficking in persons; however, various laws can be used to prosecute traffickers, including laws against kidnapping, inducement to prostitution, and laws protecting juveniles. These laws stipulate that proper security measures as well as financial assistance must be provided to trafficked victims when they report a trafficking crime. The Labor Standards Law prohibits the employment of any person under 18 years of age in work that "is detrimental to morality or health." The Juvenile Sexual Protection Act, which took effect in 2000, imposes lengthy prison terms for persons convicted of sexual crimes against minors (see Section 5).

Despite these legal prohibitions against trafficking in persons, the Republic of Korea was a country of origin, transit, and destination for trafficking in persons. As a country of origin, women were trafficked primarily for sexual exploitation to the United States, as well as to other Western countries and Japan. Relatively small numbers of economic migrants, seeking opportunities abroad, were believed to have become victims of traffickers as well.

The country was considered a major transit point for alien smugglers, including traffickers of primarily Asian women and children for the sex trade and domestic servitude. Women from many countries, primarily China, were trafficked through Korea to the United States and many other parts of the world. There were reports of the falsification of government documents by travel agencies; many cases involved the trafficking or smuggling of Chinese citizens to Western countries. In addition to trafficking by air, much transit traffic occurred in the country's territorial waterways by ship.

Women from the Philippines and Russia were trafficked to the country for sexual exploitation. They were recruited personally or answered advertisements and were flown to Korea, often with entertainer visas. In some cases, employers held victims' passports.

In 2001, the Supreme Prosecutor's Office established joint investigations centers in collaboration with the police force and local governments to address trafficking and inveigling of women for forcible sexual exploitation, forcible transfer to foreign territory for employment in "service establishments of indecent nature," illegal entry into the country for purposes of sexual exploitation, the sale of women between prostitution establishments, and departures from the country through fake employment or marriage overseas.

As a result of tightened restrictions on "entertainer" visas, applicants for this type of visa must now be interviewed in their home country by a Korean consular official. The Government also instituted restrictions on the types of establishments in which foreign entertainers may be employed. The National Police Administration initiated a program of informing foreign employees of bars and similar establishments of their rights, and, in cooperation with the Ministry of Gender Equality, established a multilingual hotline for victims of trafficking.

At year's end, 792 persons had been investigated for suspected trafficking, of whom 135 were arrested. In addition, 139 suspected visa brokers and alien smugglers were investigated for violation of the Stowaway Control Law, of whom 137 were prosecuted. Additionally, 552 persons were investigated on charges of violation of the Passport Law, of whom 489 were

prosecuted.

Various laws stipulate that appropriate facilities, such as temporary shelters, as well as counseling assistance, medical treatment, and occupational training programs, be provided to protect and assist trafficking victims. In 2002, the latest year for which statistics were available, 116,664 calls were received by hotlines dealing in women's issues. There were 25 guidance and protection facilities, used by 1,634 persons; 92 sexual assault counseling centers, with 48,112 cases reported; 12 protection facilities for victims of sexual violence and of trafficking, used by 193 persons; 142 counseling centers for family violence, with 177,413 cases reported; and 32 protection facilities for victims of family violence, used by 3,553 persons.

Prostitution is illegal but widespread. The Ministry of Gender Equality conducted a comprehensive survey of the sex industry in 2002 that concluded that as many as 500,000 women, Korean and foreign, engaged in some form of prostitution in Korea. The study estimated that the country's sex industry had generated \$22 billion (26 trillion won) in profits that year.

The Government worked with various NGOs to develop awareness of the issue and help prevent trafficking. Some foreign women working in the entertainment industry were advised of their rights in an orientation program organized by the National Police Agency. The police cooperated with officials of the Philippine, Russian, and other embassies in investigating and attempting to resolve various trafficking-related issues and disputes.